

RECEIVED
CENTRAL FAX CENTER

Attorney Docket 101216-39

JAN 05 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | |
|------------|---|-----------------------------------|
| SERIAL NO. | : | 10/791,920 |
| APPLICANT | : | Isabel Vega Carrascal, et al., |
| FILED | : | 2 March 2004 |
| EXAMINER | : | TO BE ASSIGNED |
| ART UNIT | : | TO BE ASSIGNED |
| FOR | : | COMPOSITION FOR DYEING HUMAN HAIR |

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 5, 2005

DECLARATION

Sir:

All of the facts stated herein are, to the best of my knowledge, true and accurate.

1. I am Dr. Mustafa Grit, a citizen of the Netherlands and Turkey, residing at Gernsheim, Germany. I am head of the patent department of assignee, KPSS-Kao Professional Salon Services GmbH.
2. References to exhibits relate to the prior petition submitted in this matter, which is incorporated herein.
3. Ms. Isabel Vega Carrascal and Mr. Bernd Nöcker are the inventors of the subject matter disclosed and claimed in the above-referenced application. The subject matter of the above-referenced application was assigned to KAO PROFESSIONAL SALON SERVICES GmbH, ("KPSS"). The assignment to

Atty's Docket: 101216-39

KPSS was effected by Ms. Vega Carrascal and Mr. Nöcker, when each independently executed three separate assignments corresponding to each of three German priority documents. Copies of Ms. Vega Carrascal's three executed documents and the English translations are submitted herewith as Exhibit 1.

4. Currently, Ms. Vega Carrascal refuses to sign a declaration pursuant to 37 CFR § 1.63.
5. On 16 February 2004, the application papers accompanied by an assignment, a declaration, and a letter (see Exhibit 2) requesting Ms. Vega Carrascal to sign the new assignment and declaration was sent to her most recently known address:

Isabel Vega Carrascal
c/Juan de Valladolid 36 4°
Valladolid, 47014
Spain

The sending of the papers was undertaken at my direction, and I have first hand knowledge that they were indeed sent as indicated.

In accordance with the evidentiary guidelines set out in MPEP § 409.02, it is believed that these documented facts support the conclusion that KPSS has performed a *bona fide* attempt to contact Ms. Vega Carrascal, and to deliver to her the application papers, declaration and new assignment.


6. However, the declaration and assignment sent to Ms. Vega Carrascal on 16 February 2004 was not returned to KPSS, indicating Ms. Vega Carrascal's refusal to sign the declaration.
7. Ms. Vega Carrascal's refusal to sign the declaration was directly established in a personal telephone conversation that took place on 23 March 2003 between Ms. Vega Carrascal, and myself.

Atty's Docket: 101216-39

8. In this conversation with me, Ms. Vega Carrascal expressly refused to sign the declaration. Further, she refused to explain her reasons for refusing to sign the declaration.
9. In view of the foregoing facts, it was decided to file this petition pursuant to 37 CFR § 1.47(a). It is respectfully requested that the Office of Petitions grant the petition and permit Mr. Bernd Nöcker the right to apply for patent in his behalf and that of Ms. Vega Carrascal.

I hereby declare that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

January 5, 2005



Dr. Mustafa Grit